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HUMAN RIGHTS QUESTIONS

Implementation of Economic and Social Council resolution 1983/30 on the suppression of the traffic in persons and of the exploitation of the prostitution of others

Report of the Secretary-General

SUMMARY

The Economic and Social Council in its resolution 1983/30 on the suppression of the traffic in persons and of the exploitation of the prostitution of others made a number of recommendations to Member States on that subject. Among the recommendations were the ratification of international instruments and the adoption of measures aimed at preventing prostitution, increasing the number of women in the State's personnel having direct contact with the populations concerned, eliminating discrimination against prositutes and facilitating their reabsorption into society, curbing the pornography industry and punishing all forms of procuring. Requests regarding these issues were also made to organs and organizations of the United Nations system. At the Council's request, the Secretary-General reported on the implementation of resolution 1983/30 to the Council at its first regular session of 1985 (E/1985/46) and at its first regular session of 1990 (E/1990/33).

* E/1991/30.

The Council in resolution 1990/46 requested the Secretary-General to report further to the Economic and Social Council, at its first regular session of 1991, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that have not yet submitted such information. The present document contains information submitted pursuant to that request.

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INTRODUCTION

1. In its resolution 1990/46 of 25 May 1990 on the suppression of the traffic in persons, the Economic and Social Council requested the Secretary-General to report further to the Council, at its first regular session of 1991, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that have not yet submitted such information. (The text of Economic and Social Council resolution 1983/30 is annexed to the present report.)

2. Pursuant to that resolution, the Secretary-General, on 3 October 1990, addressed requests to Governments, United Nations organs, specialized agencies and intergovernmental organizations concerned for information on the steps taken to implement the recommendations in Council resolution 1983/30.

3. By 8 February 1991, replies had been received from the following States: Brunei Darussalam, Colombia, Gabon and Tunisia.

4. Substantive replies were also received from the Department of Public Information, the United Nations Educational, Scientific and Cultural Organization, the United Nations Development Programme, the Commission of the European Communities and the Organization of American States.

5. The present report is submitted in pursuance of paragraph 3 of Council resolution 1990/46 and contains the substantive replies received.

6. The Secretary-General deems it appropriate to refer also to his previous reports on the implementation of Economic and Social Council resolution 1983/30 (documents E/1985/46 and E/1990/33) which were submitted to the Council at its first regular sessions of 1985 and 1990. As indicated in those reports, a number of countries (Barbados, Belgium, Chad, Chile, Czechoslovakia, Colombia, El Salvador, the Federal Republic of Germany, Finland, Iraq, Madagascar, Mexico, Netherlands, Norway, Pakistan, Portugal, Qatar, Rwanda and South Africa) had submitted information in connection with Council resolution 1983/30. Substantive replies on this subject had also been received from the Division for the Advancement of Women, the Economic Commission for Africa, the Economic Commission for Latin America and the Caribbean, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation, the World Tourism Organization and Interpol. The information contained in those replies was transmitted to the Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities for consideration at its tenth, eleventh and fifteenth sessions.

7. Any additional replies will be issued as addenda to the present report.

I. INFORMATION RECEIVED FROM STATES

A. Brunei Darussalam

[Original: English]

[5 December 1990]

1. The appropriate authorities in Brunei Darussalam have so far succeeded in suppressing illicit activities related to the traffic in persons and the exploitation of the prostitution of others. Offenders are being referred to courts of law for the purpose of prosecution in accordance with existing legislation. Further measures will continue to be taken to combat said activities.

B. Colombia

[Original: Spanish]

[17 December 1990]

1. The State of Colombia has established the absolute prohibition of slavery as its overriding constitutional principle. Thus, article 22 reads as follows: "No one shall be enslaved in Colombia. Any individual who, being so enslaved, enters the Republic's territory shall be set free."

2. This principle, enshrined in the Constitution since its enactment in 1886, is one of the human rights which will be most closely analysed in the context of the political process which Colombia is now going through as a result of the mandate to be granted to the Constituent National Assembly.

3. Over time, the elements of slavery have taken on modern guises constituting so many violations against mankind and the enjoyment of individual rights. In this connection, the prostitution of others and traffic in persons, to cite only those examples, constitute flagrant examples of the exploitation of man by man, and are, thus, inevitably matters which necessitate legal action on the part of the State to halt their depredation of society.

4. In connection with the foregoing, Colombian jurisdictional legislation provides, in its Penal Code, for means of countering these assaults on the freedom of man to determine his own destiny. With regard to the exploitation of the prostitution of others and traffic in persons, the Criminal Code, chapter V, articles 308 to 312, under part XI on "Offences against Sexual Inviolability and Decency", provides for sanctions against the violations of inducement to prostitution, coercion to engage in prostitution, traffic in women and minors and abetment of the prostitution of minors.

C. Gabon

[Original: French]

[14 June 1990]

1. Paragraph 1 of Economic and Social Council resolution 1989/74, which reminds States parties to the relevant Conventions of 1926, 1956 and 1949 and the Protocol of 1953 to submit regular reports on the situation in their countries, does not directly concern Gabon, since it has not yet acceded to those instruments.

2. However, in accordance with the invitation contained in paragraph 1 of resolution 1983/30, the Government of Gabon could immediately study the appropriateness of acceding to the Convention referred to therein, and to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, referred to in paragraph 2 of the resolution.

3. With regard to provisions adopted to prevent prostitution and to penalize and curb slavery-like activities and practices, referred to in paragraph 3 of resolution 1983/30, the Government has always been concerned to implement measures, under the country's criminal justice procedures, to deter and curb various criminal practices affecting women and children of either sex which offend public morals.

4. It must be acknowledged that very little is known about prostitution in Gabon, which is often occasional in nature, to such an extent that it is difficult to provide a meaningful report on the situation.

5. Any ostracism of those who have allegedly engaged in occasional prostitution is not apparent.

6. No case of procuring involving nationals has been brought to the attention of the national police, either at Libreville or in the interior of the country.

7. The State, which safeguards the moral welfare of its citizens, has established a film censorship board. The board meets as necessary to rule on the suitability for distribution of any violent and/or erotic film brought into the country.

D. Tunisia

[Original: French]

[28 December 1990]

Absence of lawful discrimination against prostitutes

1. Tunisian legislation does not contain any measure or provision discriminating against prostitutes.

2. Prostitution is an offence punishable under criminal law and is subject to the general system of sentencing.

3. Those individuals guilty of the offence of prostitution may be granted conditional release, pardon, amnesty and the recovery of their civil rights, which expunges, with future effect, any convictions and resulting disqualification of the offender, thus allowing the recovery of the individual's rights and clearing the way for reabsorption into society (Code of Criminal Procedure, art. 370).

Restrictions on the industry of and traffic in pornography

4. There has so far been no sign in Tunisia of the industry of or traffic in pornography.

5. This may be explained by the existence of legal prohibitions which are strictly observed in practice.

6. The Tunisian Penal Code provides for a sentence of six months' imprisonment, in addition to a fine, for any act of indecent exposure "committed publicly and wilfully" (art. 226). It also punishes by a term of imprisonment of one to three years and a fine "anyone who commits an immoral offence, by inducing, promoting or facilitating the debauchery or corruption of minors of either sex" (art. 234).

7. Article 235 of the Penal Code further provides that this sentence may be imposed "even where the various acts comprising the constituent elements of the offences have been performed in different countries".

8. This legislation offers a broad general framework and basis for the criminalization and suppression of the industry of and traffic in pornography.

9. More specifically, the Press Code, promulgated under Act No. 75-32, of 28 April 1975, also contains restrictive provisions in this regard.

10. Article 1 of the Press Code stipulates that: "Printing, the press and the book trade shall be free under the conditions specified herein."

11. Thus, the following are subject to the requirement of a statutory deposit, "printed matter and written material of all kinds" including "engravings, illustrated postcards, posters ... magazines or other publications, (and) photographic works" (art. 2).

12. This requirement also applies to any work produced abroad when it is "introduced into Tunisia and offered for public sale, rental or distribution" (art. 9).

13. Works published or introduced into Tunisia in contravention of the above provisions "may be seized by decision of the Ministry of the Interior", and copies "illegally offered to the public" may be confiscated by order of the competent court, as specified in article 12 of the Press Code.

14. Further, the Code provides, in article 62, that: "The distribution, sale and display on public view, and possession for the purposes of distribution, sale or display with a view to making public, of pamphlets, bulletins and stickers of foreign origin or otherwise of such a nature as to undermine law and order or public morals, shall be prohibited."

15. Infringement of these provisions may make the perpetrator liable, in addition to immediate seizure, to a term of imprisonment of six months to five years, and a fine.

16. Similarly, Act No. 88-76, of 2 July 1988, has regulated the video sector.

17. Article 4 of that Act provides, inter alia, that: "Only films approved by the Ministry of Cultural Affairs on the basis of lists submitted by distributors may be distributed."

18. Article 9 of the Act provides for punishment of any infringement of its provisions by the imposition of a fine.

19. Further, a restraint order prohibiting the exercise of specific activities may be imposed on offenders by the courts.

Punishment of procuring

20. Here, too, Tunisian legislation is sufficiently explicit. Article 232 of the Penal Code offers a broad and comprehensive definition of procuring.

21. Thus, any person, man or woman, shall be considered a procurer:

(a) Who, in any manner, "knowingly abets, protects or assists the prostitution of others or soliciting with a view to prostitution";

(b) Who "in any way shares in the proceeds of the prostitution of others or receives income from a person habitually engaging in prostitution";

(c) Who "knowingly lives with a person habitually engaging in prostitution and who cannot document the possession of resources sufficient to support him or herself";

(d) Who "procures, entices or keeps a person, even of full age, and even with that person's consent, with a view to prostitution, or who delivers such a person into prostitution or debauchery";

(e) Or, lastly, who "acts as an intermediary, in any guise, between persons engaging in the prostitution or debauchery of others".

22. The article provides that a procurer has cumulative liability to a term of imprisonment of one to three years and a fine.

23. In order to curb such offences as much as possible, even an attempt at their commission is punishable by law.

24. Further, in an endeavour to protect the victims of such offences, who are in a state of weakness vis-à-vis the perpetrator of the offence, owing either to their situation as minors, or their submission to the perpetrator's authority, coercion or threats, the minimum penalty under the law has been raised to three years of imprisonment and the maximum to five years, together with an increased fine, on any occasion where:

"(a) The offence is committed against a minor;

(b) The offence is compounded by coercion, abuse of authority or theft;

(c) The perpetrator of the offence carries a weapon, either visible or concealed;

(d) The perpetrator of the offence is the spouse, relative in the ascending line or tutor of or has authority over the victim, or where the perpetrator is the victim's hired servant, or a teacher, civil servant or minister of religion, or where the perpetrator is assisted by one or more persons" (art. 233).

II. INFORMATION SUBMITTED BY UNITED NATIONS ORGANS, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

A. Department of Public Information

[Original: English]

[31 December 1990]

1. The General Assembly has called upon the Department of Public Information to coordinate the public information activities of the World Public Information Campaign on Human Rights and, in its responsibility as secretariat to the Joint United Nations Information Committee, to promote system-wide information activities in the field of human rights. In pursuance of this mandate, the Department carries out a coordinated multimedia approach to ensure the effective coverage of human rights activities as well as world-wide distribution of relevant information materials directly and through the 67 United Nations information centres and services around the world.

2. Although the Department has no specific mandate with regard to the issue of suppression of the traffic of persons, its activities within its mandates on human rights are often related.

3. The Department has produced, in recent years, a number of radio programmes dealing with topics related to the theme of Economic and Social Council resolution 1983/30. These include, among others, modern forms of slavery, prostitution and the traffic in women and children worldwide, the report by Fernand Laurant on the suppression of the traffic in persons, female sexual slavery and sex-oriented tourism in the Asian-Pacific region, and women and drug abuse.

4. Dissemination of information about United Nations activities concerning the status of women continues to be one of the priorities of the Department. Specific focus has been placed on information concerning the Convention on the Elimination of All Forms of Discrimination against Women and the role of women in society.

5. Many activities of the Department this past year were aimed at promoting the rights of the child, on the occasion of the adoption by the General Assembly of the Convention on the Rights of the Child on 20 November 1989, and of its entry into force on 2 September 1990.

6. The Department continues to reprint, produce and widely distribute human rights instruments in the six official languages of the United Nations. Over the years, it has published some 90 different language versions of the Universal Declaration of Human Rights. In the 1990-1991 biennium, 10 local language versions are being printed.

7. Among other related activities, the Department has worked to strengthen its activities and the dissemination of information on United Nations activities against the policies and practices of apartheid. Its comprehensive programme in this area encompasses print and audio-visual information.

B. United Nations Development Programme

[Original: English]

[2 November 1990]

1. The United Nations Development Programme has no programme or project activities in the areas covered by the work programme of the Working Group on Contemporary Forms of Slavery, such as prevention of the sale of children, prostitution of children and the use of children in pornography; eradication of the exploitation of child labour and of debt bondage; and the prevention of traffic in persons and of the exploitation of the prostitution of others.

2. For these reasons the United Nations Development Programme is not in a positon to supply the information called for in paragraph 3 of Economic and Social Council resolution 1990/46.

C. United Nations Educational, Scientific and Cultural Organization

[Original: English]

[14 December 1990]

1. The United Nations Educational, Scientific and Cultural Organization (UNESCO) continues to be concerned with affronts to the dignity of women and, in particular, with the exploitation of the prostitution of others and the suppression of the traffic in persons. Pursuant to its approved programme and budget, 1990-1991, paragraph 7221, UNESCO will be organizing a working group of specialists in 1991 (probably in Washington, D.C.) to discuss the practical implementation of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

2. In addition, UNESCO has provided assistance in the field of education and information. Thus, the Organization sponsored the participation of several women from the Arab and African regions in the Summer University of Dijon (France) held in July 1990, which brought together European non-governmental organizations and specialists to examine measures to combat prostitution and the traffic in persons. UNESCO has continued to collaborate with anti-prostitution non-governmental organizations, including the International Abolitionist Federation and Le Mouvement du Nid, an association based in France. A UNESCO representative participated in the symposium on youth and prostitution organized by Le Nid (Paris, 7 November 1990) and in a week of

information on problems of prostitution and violence against women organized by Le Nid in cooperation with the city of Tourcoing, France (16-23 November 1990).

D. Commission of the European Communities

[Original: French]

[11 February 1991]

1. The Treaties establishing the European Communities do not provide for any Community competence as such in the area of human rights. Nevertheless, the preamble to the EEC Treaty affirms as the essential objective of the European Communities "the constant improvement of the living and working conditions of their peoples", basing their approach, inter alia, on "the fundamental rights recognized in the ... Convention for the Protection of Human Rights and Fundamental Freedoms" (preamble to the Single European Act).

2. Within the Community, the Commission of the European Communities is actively participating in the formulation of Community rules intended to coordinate the national provisions of member States concerning the protection of certain social groups. Thus, under its programme of action for the implementation of the Community Charter of Fundamental Social Rights for Workers, adopted at the end of 1989, the Commission will propose a Council Directive on the protection of young people. The Directive will be designed to protect the health and safety of young people by establishing a minimum age for the commencement of employment.

3. In order to ensure the uniform implementation of fundamental rights in the Community, the Commission has recently submitted to the Council a communication concerning accession by the European Community to the European Convention for the Protection of Human Rights and Fundamental Freedoms concluded in the Council of Europe.

4. In its relations with third countries, the Community is endeavouring to promote respect for human rights in accordance with international commitments under such instruments as the Charter of the United Nations. By way of example, article 5 of the Fourth Lomé Convention is entirely devoted to the question of human rights, this being included in the objectives and principles of cooperation between the EEC and ACP countries. Further, an annex to the Convention contains a joint declaration on article 5, in which: "The Contracting Parties proclaim their determination to work effectively for the eradication of apartheid, which constitutes a violation of human rights and an affront to human dignity".

5. The Community and its member States have also developed positive measures intended to encourage the abolition of apartheid, and have recently agreed to intensify this programme of positive measures and to amend it in the light of current developments.

6. Lastly, a number of cooperation agreements have already reflected a concern for human rights: the preamble to the agreement for cooperation with the countries which are signatories to the General Treaty on Central American Economic Integration, and article 1 of the agreements on cooperation and trade with Chile and Argentina. The Rome Declaration of 20 December 1990 on relations between the European Community and the Rio Group reaffirmed the determination of the parties to "reinforce their relationship, with a view to ... supporting democracy and the rule of law, respect for human rights and promotion of social justice, respect for sovereignty, self-determination and non-intervention, and working together to create adequate conditions to eliminate poverty and all forms of racial, political, religious and cultural discrimination".

7. The Commission also recalls that member States have entered into commitments, including with regard to the problem of forced labour, in the context of the International Labour Organisation.

8. In so far as Economic and Social Council resolution 1983/30 represents a contribution to the formulation of international human rights standards, its implementation is to be encouraged at the international level. The analysis of the effective implementation of such standards to be submitted by the Secretary-General to the Economic and Social Council at its first regular session of 1991 will promote awareness on the part of the public and Governments of the need to abolish all modern forms of slavery with a view to better protecting minorities and respect for human dignity.

E. Organization of American States

[Original: English]

[6 December 1990]

1. The issue addressed by Economic and Social Council resolution 1983/30 is important to the States members of the Organization of American States (OAS). The Fourth Inter-American Specialized Conference on Private International Law (CIDIP-IV), held in Montevideo, Uruguay, in 1989, achieved progress with the adoption of two conventions on the protection of minors: the Inter-American Convention on the Repatriation of Minors and the Inter-American Convention on Maintenance Obligations.

2. As a natural progression in the development of the law in this area, the OAS member States participating in CIDIP-IV resolved to accord priority status to the civil aspects of traffic in minors. The latter has been included as a topic in the draft agenda of the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V), to be held in 1994. In the interim, the secretariat for Legal Affairs has been charged with the preparation of technical and background documents for CIDIP-V, in collaboration with the Inter-American Children's Institute and the Inter-American Juridical Committee.

Annex

ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1983/30 ON THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS

The Economic and Social Council,

Recalling that the enslavement of women and children subjected to prostitution is incompatible with the dignity and fundamental rights of the human person,

Recalling its resolution 1982/20 of 4 May 1982,

Having taken note of the report prepared by the Special Rapporteur in pursuance of that resolution, 1/

1. Again invites Member States to sign, ratify and implement the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; 2/

2. Also invites Member States to sign, ratify and implement the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on 12 September 1923, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947; 3/

3. Recommends that Member States should take account of the report of the Special Rapporteur and draw up, subject to their constitutions and legislation and in consultation with the parties concerned, policies aimed, to the extent possible, at:

(a) Preventing prostitution by moral education and civics training, in and out of school;

(b) Increasing the number of women among the State's personnel having direct contact with the populations concerned;

(c) Eliminating discrimination that ostracizes prostitutes and makes their reabsorption into society more difficult;

(d) Curbing the pornography industry and the trade in pornography and penalizing them very severely when minors are involved;

1/ E/1983/7 and Corr.1 and 2.

2/ General Assembly resolution 317 (IV), annex.

3/ United Nations Treaty Series, vol. 46, No. 710, p. 201.

(e) Punishing all forms of procuring in such a way as to deter it, particularly when it exploits minors;

(f) Facilitating occupational training for and the reabsorption into society of persons rescued from prostitution;

4. Further invites Member States to co-operate closely with one another in the research for missing persons and in the identification of international networks of procurers and, if they are members of the International Criminal Police Organization, to co-operate with that organization, requesting it to make the suppression of the traffic in persons one of its priorities;

5. Invites the regional commissions to help Member States and United Nations bodies wishing to organize regional expert meetings, seminars or symposia on the traffic in persons;

6. Suggests to the Secretary-General that he designate as a focal point the Centre for Human Rights, specifically the secretariat of the Working Group on Slavery, in close co-operation with the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs;

7. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the possibility of inviting the Commission on the Status of Women to designate a representative to participate in all sessions of the Working Group on Slavery, in accordance with Economic and Social Council resolution 48 (IV) of 29 March 1947;

8. Requests the Centre for Human Rights to prepare, in liaison with the United Nations agencies and organs concerned and with the competent non-governmental organizations, two complementary studies: one on the sale of children and the other on the legal and social problems of sexual minorities, including male prostitution, and to submit those studies as soon as possible to the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

9. Encourages the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs to utilize the available resources of all its branches with a view to undertaking interdisciplinary studies, and to co-operate with the Division of Narcotic Drugs;

10. Invites all the organs, organizations and agencies of the United Nations system concerned, particularly the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the International Labour Organisation and the World Health Organization, to bring the traffic in persons to the notice of their representatives and experts and to transmit their observations and their studies to the focal point designated by the Secretary-General;

11. Encourages the United Nations Educational, Scientific and Cultural Organization to draw up, with member States, programmes for use in schools and in the media concerning the image of women in society;

12. Invites the World Tourism Organization to place the question of sex-oriented tourism on its agenda;

13. Requests the Secretary-General to take the necessary steps to have the report prepared by the Special Rapporteur in pursuance of Council resolution 1982/20 reproduced as a United Nations publication so that it may be widely disseminated;

14. Also requests the Secretary-General to report to the Economic and Social Council, at its first regular session of 1985, on the steps taken to implement the present resolution;

15. Decides that the activities recommended in the present resolution will be carried out within the limits of the resources provided for by the Secretary-General in the proposed programme budget for the biennium 1984-1985.

14th plenary meeting
26 May 1983